

REMARKS

Claims 1-13 stand allowed. Applicants respectfully thank the Examiner for allowing claims 1-13. Claims 14-39 stand rejected.

I. Applicants are aware of the limitations of 37 CFR 1.116. This response summarily places all of the claims in condition for allowance.

37 C.F.R. 1.116 restricts the amendments and arguments that applicants may make after final rejection. Applicants respectfully assert that the following arguments overcome the outstanding rejections and summarily place the application in condition for allowance without amendment to the claims. No new search is required. Thus, this response is made in accordance with 37 C.F.R. 1.116.

II. The anticipation rejection of independent claim 14 and dependent claims 15-17 in view of Pinder, US 5,758,267.

Claims 14-17 stand rejected as anticipated by Pinder.

Claim 14 claims *in relevant part*:

transmitting a message through the at least one wireless transceiver based on the acceleration vector, the message comprising at least one instruction that governs behavior of the entity.

In the Office Action at page 2, the USPTO alleges that Pinder teaches transmitting a message through at least one wireless transceiver based on the acceleration vector (figure 4, numeral 55, 50, figure 5, number 60, column 5, lines 12-60). However, this is incorrect. A word search and line-by-line reading of Pinder shows that controlling the transmitter 55 of Pinder does not teach the claimed limitations as alleged. Namely, Pinder does not disclose *transmitting a message through the at least one wireless transceiver based on the acceleration vector, the message comprising at least one instruction that governs behavior of the entity*. For example, at column 5, lines 12-60 nothing like the claimed limitations is discussed. In fact, Pinder merely discloses a transmitter, and does not describe a message or how a message and an instruction governing

behavior of the entity *would be transmitted through the transmitter* or anything similar.

To aid and provide additional understanding to the Examiner, and not to argue limitations which are unclaimed, applicants point to paragraph [00065] of the present specification which is an embodiment encompassed by this claim and which further illustrates the discussion above.

Thus, as all of the limitations of claim 14 are not taught for anticipation purposes under 35 U.S.C. §102(e), the rejection of claim 14 is respectfully traversed. Rejected dependent claims 15-17 are therefore also allowable.

III. The anticipation rejections of independent claims 32 and 38 in view of Lands, US 6,411,828.

Claims 32 and 38 stand rejected as anticipated by Lands under 35 U.S.C. §102(e).

Claim 32 claims in *relevant part*:

32. (Previously presented) A method *to set a call reception state* of a wireless device, comprising:

detecting, from an output of a proprioceptive sensor, an orientation of the wireless device when at rest upon a surface; and

setting the call reception state of the wireless device *based on the detected orientation*.

The Office Action at page 3 alleges that Lands discloses setting a call reception state; however this is incorrect. Rather, Lands merely deals with switching modes between speakerphone mode and handset mode *for operation* based on the indication of a gravitational sensor. For example, when the handset is picked up vertically, handset mode is selected, and when the handset is layed down horizontally, speakerphone mode is selected. However, no discussion of setting *a call reception state*, i.e., go to voice mail, take the call, make an announcement, etc. is discussed in Lands. In other words, claim 32 claims *a reception setting for when the call is received, i.e., a reception state* of the wireless device *based on the detected orientation*, and this is not discussed in Lands. See also page 17, paragraph [00073] and Table 2 for an example of an embodiment covered by claim 32 from the present specification.

Additionally, in Lands a button (235, 236) *must be pushed before* the gravitational sensor is activated. Thus, the claimed method steps of setting of the call reception state based on the detected orientation would also not be performed as claimed in claim 14 *because a button must*

be manually pushed by a user instead of using the claimed orientation detection method (see Col. 5, lines 4-10, lines 41-43, and lines 62-63). Therefore, in summary, Lands deals with a speaker operations mode which selects the speakers to be used (handset, speakerphone, etc.) and has nothing to do with setting the *call reception state* as claimed in claim 32. Thus, as all of the limitations of claim 32 are not taught for anticipation purposes under 35 U.S.C. §102(e), the rejection of claim 32 is respectfully traversed.

In regard to claim 38, claim 38 claims *in relevant part*:

38. (Previously presented) A wireless device comprising a wireless transceiver, a proprioceptive sensor and a data processor operating under control of a stored program to *set a call reception state* of the wireless device, comprising first program instructions to detect, from an output of the proprioceptive sensor, an orientation of the wireless device *when at rest upon a surface*; and *second program instructions to set the call reception state* of the wireless device *based on the detected orientation*.

Again, as with claim 32 discussed above, no setting the call reception state is disclosed in Lands. Thus, it follows that *no second program instructions to set the call reception state* are disclosed in Lands. Therefore, claim 38 is not anticipated by Lands due to these additional limitations as well. Thus, as all of the limitations of claim 38 are not taught for anticipation purposes under 35 U.S.C. §102(e), the rejection of claim 38 is respectfully traversed.

In accordance with the above discussion, dependent Claims 33 and 39, which are rejected at page 11 of the Office Action, are also respectfully asserted to be allowable as Lands does not disclose the limitations of independent claims 32 and 38 as alleged at page 11.

IV. The obviousness rejection of dependent claim 18 in view of the combination of Pinder and Hardouin, US 6,311,078.

Claim 18 depends from claim 14, the rejection of which was traversed above at section II wherein it was noted that Pinder merely discloses a transmitter and does not describe a message or how a message and an instruction governing behavior of the entity *would be transmitted through the transmitter* or anything similar as claimed in claim 14. Therefore, the rejection of claim 18 at page 4 of the Office Action which states that "Pinder discloses the method of claim 14" is deficient.

Therefore, all of the limitations of claim 18 are not taught or suggested as alleged in the

rejection by the combination of Pinder and Hardouin as required for an obviousness rejection under 35 U.S.C. §103(a) (see MPEP 706.02(j) for the requirements to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a)). Thus, the obviousness rejection of dependent claim 18 is respectfully traversed.

V. The obviousness rejection of dependent claim 19 in view of the combination of Pinder and Lu, 6,603,420.

Claim 19 depends from claim 14, the rejection of which was traversed above at section II wherein it was noted that Pinder merely discloses a transmitter and does not describe a message or how a message and an instruction governing behavior of the entity *would be transmitted through the transmitter*, or anything similar, as claimed in claim 14. Therefore, the rejection of claim 19 at page 4 of the Office Action which states that "Pinder discloses the method of claim 14" is deficient.

Therefore, all of the limitations of claim 19 are not taught or suggested as alleged in the rejection by the combination of Pinder and Lu as required for an obviousness rejection under 35 U.S.C. §103(a) (see MPEP 706.02(j) for the requirements to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a)). Thus, the obviousness rejection of dependent claim 19 is respectfully traversed.

VI. The obviousness rejection of independent claim 20, and dependent claims 21-27, in view of the combination of Hardouin and Nilson, US 6,529,144.

Claim 20 claims *in relevant part*:

20. (Previously presented) A method to send a feedback contextual response to a calling device comprising:

detecting at least one acceleration during a time interval, where the detected at least one acceleration is indicative of *an orientation of a mobile station in three dimensional space*;

detecting an incoming signal from a calling device;

selecting an announcement based on the orientation of the mobile station;

and transmitting the announcement.

Hardouin's function is based on detecting speed and not on detecting orientation as claimed in claim 20, i.e., if the wireless telephone is moving above a predefined speed such as when located

in a moving automobile, the incoming call is directed to voicemail for example. Incorporating a GPS unit is discussed as the preferred method for determining the speed (see col. 2, lines 39-51).

Thus, it is respectfully noted herein that is incorrect for the USPTO to allege at page 5 of the Office Action that Hardouin selects an announcement based on the "orientation" of the mobile station -- when in fact -- speed is the criterion that is used. For example, the time needed to travel a known distance between two reference points is timed and the speed is computed.

Speed is also a scalar and not a vector, so for example, vector components of orientation in three dimensional space are not used for computing speed.

Additionally, Hardouin discusses detecting speed and not acceleration as claimed in claim 20, i.e., "detecting at least one acceleration during a time interval." Acceleration is the derivative of velocity (a vector) not speed (a non-directional scalar).

Thus, Hardouin does not disclose the limitations of claim 20 which it is claimed to disclose by the USPTO at page 5 of the Office Action, namely, "detecting an acceleration" and "selecting an announcement based on the orientation." Thus, as a preliminary matter, the cited reasoning and combination is deficient, and the rejection is thus traversed as the USPTO's reliance on incorrect reasoning regarding Hardouin has been pointed out.

Nilsen is cited as disclosing at least one acceleration indicative of an orientation of a mobile station in three dimensional space. At col. 2, line 61, Nilsen does disclose use of a 3-axis accelerometer. However, Nilson also does not make up for the deficiencies of Hardouin discussed above.

Nilsen discloses detecting unique, user-defined, "motion sequences" such as shaking an electronic device three times which will trigger a selected function. However, it is important to note that the very specific motion sequences in Nilsen cannot be similar to normal environmental motions (see col. 3, lines 51-63). Thus, Nilsen is dealing with very specific user-defined, and thus unnatural and non-environmental, motion sequences which again are user-defined, very unique, and non-typical motions such as shaking the device three times. In contrast, claim 20 claims detecting the orientation of the mobile station which includes when the mobile station is in its normal motion environment, i.e., not merely when the mobile station is performing an elaborate user-defined and non-environmental "motion sequence" motion. This is because claim 20 more broadly claims detecting one acceleration over a time interval. Therefore, Nilsen actually

“teaches away” from using the claimed present invention because, Nilsen teaches that if a motion is too similar to a normal environmental motion, it is not used to trigger a function of the mobile device, i.e., environmental motions in Nilsen are not used for the very specific user-defined “motion sequences” to trigger a function in the mobile device. This is the opposite teaching of present claim 20. This difference, and opposite teaching, is readily seen in the language of Claim 20 quoted below:

20. (Previously presented) A method to send a feedback contextual response to a calling device comprising:
detecting at least one acceleration during a time interval, where the detected at least one acceleration is indicative of an orientation of a mobile station in three dimensional space;
detecting an incoming signal from a calling device;
selecting an announcement based on the orientation of the mobile station;
and
transmitting the announcement.

In summary, when the two cited references are combined, *all that is taught and suggested is combining an environmental “speed” sensing reference (Hardouin) with a non-environmental, unique, user-defined “motion sequence” detecting reference (Nilsen)*. Therefore, these references are not technically compatible and would not be combined by one skilled in the art due to their opposite teachings. Additionally, as stated above Nilsen, “teaches away” from the limitations of claim 20 by excluding use of environmental or normal accelerations which indicate normal environmental and operational “orientation” of the device as claimed in claim 20. Therefore, it is respectfully noted that only an improper “hindsight analysis” coupled with an “improper redesign” of the technology of the references could ostensibly lead to the teachings and the limitations of claim 20. Therefore, all of the limitations of claim 20 are not taught or suggested as alleged in the rejection by the combination of Hardouin and Nilsen as required for an obviousness rejection under 35 U.S.C. §103(a) (see MPEP 706.02(j) for the requirements to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a)).

Thus, the obviousness rejection of independent claim 20 is respectfully traversed. Dependent claims 21-27 also stand rejected as obvious in view of the combination of Hardouin and Nilsen, and as claim 20 is allowable, these dependent claims are also respectfully asserted to

be allowable particularly in view of the USPTO's incorrect technical reasoning regarding Hardouin which renders the rejections deficient as discussed above.

VII. The obviousness rejections under 35 U.S.C. §103(a) of independent claims 28, 30, 34, and 36 in view of the combination of Lu, US 6,603,420 and Baskin, US 5,307,055.

Applicants respectfully provide the following information to summarily assist the Examiner in regard to what is meant by "an entity" as claimed and not to argue any limitations which are unclaimed. As discussed at paragraphs [00063] and [00084] of the present specification, a mobile agent or mobile entity is a program that operates on a mobile station. For example, at paragraph [00084] it is stated that: "A mobile agent, e.g., a mobile entity may operate using an orientation as a command." At paragraph [00063] it is stated that a principle function of mobile entities may be to entertain and may include displayed animation. As discussed at paragraph [00065] it is also possible to transfer this program or "*propagate the mobile entity*" to other mobile devices via wireless transmission of the entity. For example, at paragraph [00084] it is described that:

"A more sophisticated command may be to move the mobile agent to the left, and if the mobile agent as displayed, has reached the left most portion of the display, then the mobile agent should transmit a copy of itself, in machine independent instruction form, over a wireless link to a mobile station that is nearby."

For example, claim 34 claims *in relevant part*:

34. (Previously presented) A wireless device comprising a wireless transceiver, a visual display, a memory, a proprioceptive sensor and a data processor operating under control of a stored program having program instructions *to propagate a mobile entity from the wireless device to another device*, comprising first program instructions to detect an orientation of the wireless device from an output of the proprioceptive sensor; based on the detected orientation, second program instructions to change a display of at least a location of the mobile entity on the visual display; third program instructions, *responsive to changed display of at least the location of the mobile entity meeting a criterion, to transmit a description of the mobile entity via the wireless transceiver to the another device* for storage of the description and display of the mobile entity on a display of the another device.

However, nothing like the limitations quoted above is taught or suggested by Lu which instead

discloses a simple remote control device with no "entity" as claimed, and with *no propagating the mobile entity* from the wireless device to another device as claimed. In other words, a remote control that sends out an IR control signal is not the same as a wireless device that sends out a mobil "entity," just as a television remote control's electromagnetic signal is not the same as a Wi-Fi transmitter transmitting a downloadable program "entity" to a computer. Thus, the USPTO is respectfully incorrect in citing Lu, because nothing in the disclosure of Lu teaches or suggests an entity, and the claimed limitations, because no mobile entity exists or is propagated in Lu.

Baskin has nothing to do with the claimed present invention, and is cited merely for disclosing a display device; thus it does not make up for the deficiencies in the primary reference, Lu. Claims 28, 30, and 36 also claim propagating or sending a mobile entity from a wireless device to a second device. Therefore, all of the limitations of independent claims 28, 30, 34, and 36 are not taught or suggested as alleged in the rejection by the combination of Lu and Baskin as required for an obviousness rejection under 35 U.S.C. §103(a) (See MPEP 706.02(j) for the requirements to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a)). Therefore, these claims are respectfully asserted to be allowable.

Dependent Claims 29, 35, 31, and 37 which are rejected at page 10 of the Office Action, are also allowable for the reasons above as the additional third reference in each case does not make up for the deficiencies in the underlying combination of Lu and Baskin. Therefore, these claims are also respectfully asserted to be allowable.

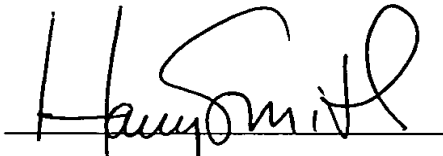
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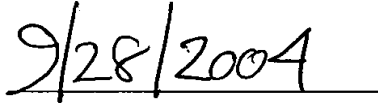
VIII. Conclusion

The Examiner is respectfully requested to reconsider and remove the rejections of claims 14-39, and to issue an early notification of allowability.

The undersigned attorney can be contacted at the numbers appearing below should any issue related to the allowance of the pending claims remain unresolved to the full satisfaction of the Examiner.

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